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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,940	09/24/2001	Stephen George Edward Barker	GJE-75	4604

23557 7590 09/21/2004

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EXAMINER

MATHEW, FENN C

ART UNIT PAPER NUMBER

3764

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/889,940

Applicant(s)

BARKER, STEPHEN GEORGE
EDWARD

Examiner

Fenn C Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 11-13, 22, 25-26, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botha (U.S. 5,395,302) in view of Orange (U.S. 5,817,038). Botha discloses a device for comprising an enclosure comprising a plastic material; wherein the enclosure has a closeable opening at an end thereof, a fastening means to enable the opening of the enclosure. Botha teaches the device is waterproof, but fails to teach at least one fluid absorbent layer. Orange teaches an analogous device citing the importance of a fluid absorbent layer within the enclosure of the waterproof covering. Orange specifically teaches a water absorbent dam positioned below the fastening means and in contact with an unaffected part of a user's limb, wherein the device provides a warm and moist environment around the wound. Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to provide the device of Botha with a water absorbent dam as taught by Orange in order to catch any retained or produced moisture.
3. Referring to claim 12, the modified Botha device discloses the plastic material being gas-impermeable.
4. Referring to claim 13, the modified Botha device discloses multi-layer construction including a gas-impermeable layer.

Art Unit: 3764

5. Referring to claim 22, the modified Botha device discloses the enclosure in the shape of a sock.

6. Referring to claims 25-26, the modified Botha device discloses the enclosure comprising a pliable partially transparent plastic material.

7. Referring to claims 31-33, the modified Botha device has disclosed the structural limitations as substantially claimed. Botha teaches the steps of placing an injured limb into the enclosure, and using fastening means to securely close the device about the limb. Orange further teaches the step of placing a water absorbent dam on the limb prior to placing on the enclosure below the fastening means thus inherently providing a moist, warm environment.

8. Claims 15-18, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botha in view of Orange as applied to claim 11 above, and further in view of Liman (U.S. 3,741,203). Referring to claims 15-18 and 21, Botha as modified above teaches the claimed invention except for a means for venting gases in the sealed enclosure. Liman teaches an analogous device, and further teaches that it is desirable to provide a means for venting the gases through an active filter in order to prevent buildup of gas in the enclosure. Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to provide the modified Botha with a venting valve as taught by Liman in order to provide a means to vent gas and prevent buildup of gas in the enclosure.

9. Referring to claim 23, Botha teaches the claimed invention except for a non-slip sole. Liman teaches an analogous device having a non-slip sole. It would have been

Art Unit: 3764

obvious to one of ordinary skill in the art at the time of invention to provide the modified Botha with a non-slip sole as taught by Liman in order to prevent a user from slipping when walking while wearing the device on the leg and foot.

10. Claims 14 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botha in view of Orange as applied to claim 11 above, and further in view of Shuler (U.S. 2,690,415). Botha teaches the above limitations except for an odor absorbing layer. Shuler discloses an odor absorbent material that can be used in bandages, wraps or the like which are advantageous for odoriferous wounds (col. 1, lines 1-10). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the device of Botha with an odor absorbent layer as taught by Shuler in order to alleviate bad odors.

11. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botha in view of Orange and Shuler as applied to claim 14 above, and further in view of Liman. Please refer to the discussion of claims 15-18.

12. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Botha in view of Orange as applied to claim 11 above, and further in view of Augustine (U.S. 5,947,914). The modified Botha discloses a device that can be used with burn victims. Botha lacks a burstable sachet within the enclosure comprising an agent suitable for treating burns. Augustine teaches a wound covering with a cellular structure forming a reservoir for the storage and release of medicaments. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the device of Botha

Art Unit: 3764

with a reservoir of medicament as taught by Augustine in order to provide a means to administer medication to a burn while being protected by an enclosure.

Response to Arguments

13. Applicant's arguments with respect to claims 11 and 31 have been considered but are moot in view of the new ground(s) of rejection. As cited above, Orange teaches an absorbent layer below the fastening means that would inherently help prevent excoriation. As broadly written in the claims by Applicant, the modified inventions meet the required structural limitations as cited above.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3764

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fcm

fcm

September 17, 2004

JY

JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

9/18/04